IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

L.P.A. No. 65 of 2003
Date of Decision: 05.11.2007

Mohd.Aslam.

..... Appellant through Shri J.C.Verma, Senior Advocate with Ms.Meenakshi Verma, Advocate.

Versus

Municipal committee,Ahmedgarh and others.

..... Respondent Nos. 1 and 2 through Shri Dinesh Nagar, Advocate for Shri Arun Walia, Advocate.
Respondent nos. 3 and 4 through Shri A.G.Masih, Deputy Advocate General, Punjab.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

....

VIJENDER JAIN, CHIEF JUSTICE

The present appeal under Clause X of the Letters Patent has been filed against judgment dated 8.1.2003 of the learned Single passed in C.W.P.No.3825 of 1985.

The appellant, who had successfully contested the termination of his service before the Labour Court, faced the onslaught of the aforesaid

writ petition preferred by respondent nos. 1 and 2. By the impugned judgment, the said writ petition has been allowed and as a direct fall-out thereof, the appellant faced the prospects of being on the roads.

Learned counsel for the appellant contended and which fact also finds mention in the grounds of appeal, that pursuant to the award of the Labour Court, the appellant had been taken back in service in 1985 itself and since then, he has been performing duties assigned to him by his employer and the learned Single Judge has failed to appreciate this fact. Besides, the only point on which the service of the appellant had been terminated was that he was shunted out after a period of seven months of his joining and the period of probation so mentioned in the letter of appointment was six months.

Respondent nos. 1 and 2 had, however, pleaded that there were in existence rules/ bye-laws which provided for probation period to be one year and, therefore, in view of the same, if the service of the appellant had been terminated after seven months of his appointment, they were very well within their right to do so.

We have heard the learned counsel for the parties at some length.

A perusal of the record shows that the appellant had been appointed as Octroi Clerk vide resolution no.5 dated 15.5.1979 on probation for a period of six months and was discharged from service vide resolution no.22 dated 11.12.1979. The pleadings before the Labour Court revealed that the factual position was not disputed. The service having been

terminated after the probation being over, respondent nos. 1 and 2 were required to at least hold an enquiry in case they found the work and conduct of the appellant as unsatisfactory as a measure of compliance of the principles of natural justice. That having not been done, we are of the considered opinion that the discharge of the appellant from service would tantamount as punishment on account of misconduct which could not be inflicted upon him without holding a proper enquiry.

That apart, the appellant has been in service of respondent nos. 1 and 2 since 1985 when the award of the Labour Court was implemented. Nothing has been brought on record to show that subsequent thereto, there has been any mis-demeanor on the part of the appellant.

Consequently, we accept the appeal and set aside the impugned judgment.

(Vijender Jain)
Chief Justice

November 05,2007
"SCM"

(Mahesh Grover)
Judge